

ORDINANCE NO. 12-23

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 8.01 OF THE KEY WEST CHARTER CALLING FOR A REFERENDUM TO AMEND CITY CHARTER SECTION 3.08 TO INCLUDE PROVISIONS FOR A SUPER-MAJORITY OR UNANIMOUS AFFIRMATIVE VOTE OF THE CITY COMMISSION WHEN REQUIRED; AUTHORIZING THE CITY CLERK TO TAKE ALL NECESSARY ACTION TO PLACE THIS MEASURE ON THE BALLOT FOR NOVEMBER 6, 2012; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Statutes Section 166.03 and Key West Charter Section 8.01 provide the City Commission with the authority to propose by ordinance a Charter amendment; and

WHEREAS, Florida Statutes Section 101.161 provides procedures for a referendum and Florida Statutes Section 100.342 provides for notice for a referendum election; and

WHEREAS, Charter Section 3.08 currently provides "...The affirmative vote of a majority of the [city commission] members in attendance is necessary to adopt any ordinance, or resolution, and the passage of all ordinances and resolutions shall be taken by "yeas" and "nays" and entered upon the journal."; and

WHEREAS, the City desires to amend City Charter section 3.08 to clarify that there are circumstances when a super-majority or unanimous affirmative vote is required; and

WHEREAS, the City Commission desires that the proposed referendum appear on the regularly scheduled election ballot of November 6, 2012;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST FLORIDA:

Section 1: That an amendment to the Key West Charter, amending section 3.08, shall be presented as a referendum to the voters of Key West. The question appearing on the ballot shall be titled: "Referendum - Amending Charter Section 3.08 - Quorum voting."

Section 2: That the ballot question shall be worded as follows:

"Shall Key West City Charter Section 3.08, which currently describes the requirement for the affirmative vote of a *majority* of the city commission to adopt any ordinance or resolution, be amended to reflect that there are specific circumstances which require a *supermajority* or *unanimous affirmative vote*?"

_____ Yes

_____ No

Section 3: In the event of the passage of the proposed Charter amendment set forth in section 2, above, section 3.08 of the Key West Charter shall be amended as follows*:

Sec. 3.08 - Quorum; voting

A majority of all members elected to the city commission shall constitute a quorum but a less number may adjourn from day to day and compel the attendance of absent members in such a manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members in attendance is necessary to adopt any ordinance or resolution, except when adoption or approval is specifically required by this charter or otherwise required by law to have a super-majority or unanimous affirmative vote, and the passage of all ordinances and resolutions shall be taken by "yeas" and "nays" and entered upon the journal.

Section 4: That the City Clerk is hereby authorized and directed to take all necessary and proper action to place this

*(Coding: Added language is underlined; deleted language is ~~struck through.~~)

question on the ballot of November 6, 2012, including the providing of notice of the election in accordance with law.

Section 5: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable as necessary to achieve the lawful purposes of this Ordinance.

Section 6: All Ordinances or parts of Ordinances of the City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 7: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 17th day of July, 2012.

Read and passed on final reading at a regular meeting held this 7th day of August, 2012.

Authenticated by the presiding officer and Clerk of the Commission on this 8th day of August, 2012.

Filed with the Clerk August 8, 2012:


CRAIG CAPES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK